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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,229	03/19/2002	Kazufumi Kai	Q61659	1681

7590

10/26/2004

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EXAMINER

ROBERTSON, JEFFREY

ART UNIT PAPER NUMBER

1712

DATE MAILED: 10/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/088,229

Applicant(s)

KAI ET AL.

Examiner

Jeffrey B. Robertson

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 5-30 is/are pending in the application.
- 4a) Of the above claim(s) 7-12,15-25,27 and 30 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 and 14 is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,28 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Priority

1. The examiner acknowledges that the certified English translation of the provisional application is present in the current application. However, there is no certified translation present in the file of the provisional application itself. In order for the translation to be present in the provisional application, applicant should submit a copy of the translation and postcard receipt for that provisional application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 26, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedlander (5,536,760).

The reference teaches unsaturated polyesters containing structurally incorporated vinyl ether. Fumaric acid is a preferred acid for use in preparing the polyester because it polymerizes more readily with vinyl ether. Compositions containing the vinyl ether modified unsaturated polyesters can be cured using radical polymerization initiators. See col. 2, lines 20-35, col. 4, lines 1-40 and col. 5, line 50 through col. 6, line 10. In column 1, line 45, Friedlander teaches that the polyester is oligomeric in nature. In column 3, lines 43-52, Friedlander teaches that it is preferred

that the ratio of vinyl ether to fumarate groups does not exceed 1:1. Given this ratio and the teaching that the polyester may be oligomeric, it would have been obvious to one of ordinary skill in the art at the time of the invention to formulate polyesters with the amounts of units specified by applicant as suggested by the reference.

Response to Arguments

4. Applicant's arguments filed 8/6/2004 have been fully considered but they are not persuasive.

Applicant argues that claims 1 and 2 comprise at least one alkenyl ether group represented by Formula (1) bonded directly to the unsaturated polyester or polyester polyether as represented by Formula (2) or Formulae (2) and (5) and that the compounds of Friedlander are completely different from the compounds of the present invention according to claims 1 or 2. The examiner disagrees. Claims 1 or 2 do not require that the units of Formula (1) are directly bonded to the units of Formulae (2) or (5). The claims only require that the units are present. There is no specific connectivity required by the claims. Therefore applicant's argument is unpersuasive. As to the argument by applicant regarding the ratio of vinyl ether groups to fumarate groups, this argument is unpersuasive since these ratios do not appear in any of the claims and the disclosure of Friedlander in column 3, lines 43-52.

Allowable Subject Matter

5. Claims 13 and 14 are allowed.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey B. Robertson whose telephone number is (571) 272-1092. The examiner can normally be reached on Mon-Fri 7:00-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy P Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jeffrey B. Robertson
Primary Examiner
Art Unit 1712

JBR